

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of JACABB Utilities, LLC for approval of an expansion of its existing water service area to include certain portions of Oconee County and request approval of the Water System Asset Purchase Agreement with Harts Cove and Tory Pointe HOA's

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2013 - 386 - W

250534
RECEIVED
PUBLIC SERVICE
COMMISSION
2014 MAR 18 11:13 AM

(Please type or print)

Submitted by: Stephen R. Goldie

Address: 210 W. North Second Street
Seneca, SC 29678

SC Bar Number:

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Other:

Email: sheilat@goldieassociates.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

- ☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously
- ☐ Other:

| INDUSTRY (Check one) | NATURE OF ACTION (Check all that apply) | | |
|--|--|--|--|
| <input type="checkbox"/> Electric | <input type="checkbox"/> Affidavit | <input type="checkbox"/> Letter | <input type="checkbox"/> Request |
| <input type="checkbox"/> Electric/Gas | <input type="checkbox"/> Agreement | <input type="checkbox"/> Memorandum | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Electric/Telecommunications | <input type="checkbox"/> Answer | <input type="checkbox"/> Motion | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Electric/Water | <input type="checkbox"/> Appellate Review | <input type="checkbox"/> Objection | <input type="checkbox"/> Resale Agreement |
| <input type="checkbox"/> Electric/Water/Telecom. | <input type="checkbox"/> Application | <input type="checkbox"/> Petition | <input type="checkbox"/> Resale Amendment |
| <input type="checkbox"/> Electric/Water/Sewer | <input type="checkbox"/> Brief | <input type="checkbox"/> Petition for Reconsideration | <input type="checkbox"/> Reservation Letter |
| <input type="checkbox"/> Gas | <input type="checkbox"/> Certificate | <input type="checkbox"/> Petition for Rulemaking | <input type="checkbox"/> Response |
| <input type="checkbox"/> Railroad | <input type="checkbox"/> Comments | <input type="checkbox"/> Petition for Rule to Show Cause | <input type="checkbox"/> Response to Discovery |
| <input type="checkbox"/> Sewer | <input type="checkbox"/> Complaint | <input type="checkbox"/> Petition to Intervene | <input type="checkbox"/> Return to Petition |
| <input type="checkbox"/> Telecommunications | <input type="checkbox"/> Consent Order | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation |
| <input type="checkbox"/> Transportation | <input type="checkbox"/> Discovery | <input type="checkbox"/> Prefiled Testimony | <input type="checkbox"/> Subpoena |
| <input checked="" type="checkbox"/> Water | <input type="checkbox"/> Exhibit | <input type="checkbox"/> Promotion | <input type="checkbox"/> Tariff |
| <input type="checkbox"/> Water/Sewer | <input type="checkbox"/> Expedited Consideration | <input type="checkbox"/> Proposed Order | <input checked="" type="checkbox"/> Other: |
| <input type="checkbox"/> Administrative Matter | <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest | |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit | |
| | <input type="checkbox"/> Late-Filed Exhibit | <input type="checkbox"/> Report | |



May 6, 2014

VIA - FIRST CLASS MAIL

The Honorable Jocelyn D. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

RE: Docket Number 2013-386-W – Application of JACABB Utilities, LLC for approval of an expansion of its existing water service area to include certain portions of Oconee County and request approval of the Water System Asset Purchase Agreement with Harts Cove and Tory Pointe Homeowner's Associations

Dear Ms. Boyd:

Please find enclosed the Water Agreement between Clemson University and JACABB Utilities, LLC for the above referenced docket number.

When the Application was submitted for the approval of the transfer for the Harts Cove/Tory Pointe Water system, we only had a letter of intent from Clemson University. The agreement was finalized and signed on May 1, 2014.

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

JACABB UTILITIES, LLC

A handwritten signature in black ink, appearing to read "S. Goldie", is written over the printed name.

Stephen R. Goldie
Managing Owner

Enclosure

cc: Dukes Scott, Executive Director, ORS
Steve Eakes, Attorney

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

WATER AGREEMENT

This Agreement is hereby made this 1st day of May 2014 between Clemson University and JACABB Utilities, LLC (hereinafter referred to as "JACABB Utilities") for the Hart's Cove / Tory Point Property, located off Highway 123/28 and Jacobs Road at Harts Cove Way, Clemson, SC, Oconee County, and as depicted in Exhibit A. In consideration of the covenants and agreements hereinafter contained and other valuable considerations, the parties hereto agree as follows:

1. Clemson University will deliver potable water to JACABB Utilities for the Hart's Cove / Tory Point Property. The party hereby agrees to use and pay for delivered water at the time and place in accordance with terms and conditions hereinafter set forth.

TERM: The Initial term of this Agreement shall be for a period of five (5) years, commencing on May 1, 2014 and shall continue thereafter to and including the 31st day of May 2019, unless earlier terminated as hereinafter provided. JACABB Utilities or Clemson University can terminate this agreement with one (1) year advance written notice. The dates upon which the Agreement Term shall commence and terminate are herein called the "COMMENCEMENT DATE" and the "EXPIRATION DATE", respectively. Subject to the terms and conditions set forth herein, this Agreement may be renewed for an additional three (3) terms following the initial term, by mutual written consent of the parties upon the same terms and conditions contained herein. Clemson University must agree in writing to the renewal and is under no obligation to renew the agreement upon request by JACABB Utilities.

Clemson University reserves the option to renegotiate this agreement if and when the water service contract for this area between Anderson Regional Joint Water System (ARJWS) and Clemson University is revised.

Should Clemson University choose to purchase water for the Main Campus from a different water supplier other than Anderson Regional Joint Water System (ARJWS), all costs associated with the change in wholesale rates shall be passed on to JACABB Utilities in proportion to water used by JACABB Utilities.

2. Water to be delivered under this agreement shall be supplied from Clemson University's 10-inch water line, previously supplying water to the former Jacob's Manufacturing facility and shall be delivered for 24 hours every day of the week. The water to be delivered under this agreement shall be only for the use of JACABB Utilities for the Hart's Cove / Tory Point Property. The delivery point of said water shall be from a meter

near the 10 inch water main, southwest of the intersection of the drive to the former Jacob's Manufacturing facility and the entrance to Hart's Cove.

3. The rate as specified in paragraph 4 below is subject to change, revision, alteration, or substitution, either in whole or in part based upon (1) any changes imposed upon Clemson University from the original supplier of said water and (2) any reasonable system-wide changes in the cost of distribution by Clemson University. Any such change, revision, alteration, or substitution shall, upon written notification to JACABB Utilities, be made a part of this as though fully written herein, and shall nullify any prior provision that conflicts with said change. Clemson University will make diligent efforts to convey to JACABB Utilities any required changes 90 days in advance. Furthermore, Clemson University agrees that if any rate change is made pursuant to #2 in this paragraph it will not impose upon JACABB Utilities a new rate any higher than that imposed internally at Clemson University.
4. JACABB Utilities agrees that its monthly bills for each month during the period shall not be less than \$25. The bill will be based on a **fixed unit rate** that is based on actual costs that include the wholesale costs, maintenance, and capital renewal costs for the Clemson University water distribution system. This rate will be calculated and revised annually. Clemson University solely will determine this rate. The cost of the annual test of the backflow preventer will be borne by JACABB Utilities. Bills shall be rendered each month by Clemson University to JACABB Utilities for the water delivered during the preceding month and all bills shall be payable at the Clemson University Accounting Office, South Carolina within 30 days after the date of each monthly billing.
5. The maximum amount of water without prior consent of Clemson University which JACABB Utilities shall consume will be 470 gallons per minute, or 150,000 gallons per day and JACABB Utilities agrees not to take water from Clemson University in excess of this rate. Clemson University reserves the right to limit delivery water to the rate set forth above to maintain a minimum residual pressure in the line as required by South Carolina Department of Health & Environmental Control. The 470-gallon per minute limit shall not apply during a case of actual firefighting.
6. RE-ASSIGNMENT, SUBAGREEMENTS: JACABB Utilities shall not, without the prior written consent of Clemson University in each instance (a) re-assign, or encumber its interest in this Agreement, in whole or part, or (b) establish or permit subagreements to this water agreement to other entities beyond the Hart's Cove / Tory Point Property. The water to be delivered under this shall be delivered for the use by JACABB Utilities at the Hart's Cove / Tory Point Property. The use of the water is for domestic purposes only. JACABB Utilities agrees not to transfer or assign this agreement and not to sell or dispose of to others, the whole or any part of the said water without the written consent of

Clemson University.

It is expressly understood and agreed that the water to be delivered under this agreement is not intended for fire protection purposes and if the water or any portion of same is used by JACABB Utilities for such purposes, such use shall be at JACABB Utilities' risk. If JACABB Utilities requests water for fire protection purposes, Clemson University will make every effort to provide it; however, it is expressly understood and agreed that Clemson University shall not be liable for any loss or damage by fire, whether such loss or damage is occasioned from the failure of Clemson University to supply water hereunder.

7. NO WARRANTY BY CLEMSON UNIVERSITY REGARDING UNINTERRUPTED SERVICE: It is agreed that Clemson University does not warrant that any one of the services referred to in this agreement will be free from interruption, including the interruption or curtailment of service resulting from damages or disruption beyond the control of Clemson University. In case either party shall be wholly or partially prevented from delivering or using water under this agreement or in case the service shall be interrupted or suspended or fail by reason of strike, fire, flood, drought, low water, accident, or any cause beyond its control, then in such event, neither party shall be liable to the other during such period of failure or suspension providing the party suffering such interruptions, suspensions, or failures, shall be prompt and diligent in removing or overcoming such cause or causes.
8. Clemson University reserves the right and JACABB Utilities hereby grants to Clemson University the right to discontinue, suspend, and withdraw the furnishing of water under this agreement during a fire at Hart's Cove / Tory Point Property, or vicinity thereof served by this water system, or during the time or times that the original supplier of the water, the Anderson Regional Joint Water System, may discontinue, suspend, or withdraw the furnishing of water to Clemson University.
9. If default shall be made at any time by JACABB Utilities in the payment of monies due under this agreement, and if such defaults shall continue for a period of 30 days, Clemson University, may, at its option, terminate this agreement or without termination or in any way voiding this agreement, suspend the furnishing of water hereunder until payment of all money due it under the terms hereof shall be made. This option may be exercised by Clemson University as often as any such default may occur. Delay or omission on the part of Clemson University to exercise such option whenever any default on the part of JACABB Utilities shall occur shall not be deemed a waiver of its right to exercise such option. Clemson University also reserves the right to terminate this agreement, upon 90 days written notice to JACABB Utilities, for breach by JACABB Utilities of any of the terms or conditions of this agreement, and JACABB Utilities shall have 60 days from the

date of any such notice to correct any such alleged breach and Clemson University cannot terminate this agreement upon correction of any such breach. In the event of default in payment, or at the termination or expiration of this agreement, Clemson University, its successors and assigns, shall be allowed to enter upon the premises of JACABB Utilities such place or places at which any meter or other property of Clemson University may be located and remove said property.

10. INDEMNITY: Clemson University shall not be liable to JACABB Utilities, or those claiming through or under JACABB Utilities, for any injury, illness, death, or property damage under this water agreement and property and appurtenances thereto, and JACABB Utilities shall indemnify Clemson University and hold it harmless from (including its Board of Trustees/Directors, affiliates, employees, officers, directors and agents) any claim of damage arising out of any injury, illness, death, or property damage occurring from water or appurtenances under the terms of this agreement.

11. Clemson University agrees to supply water for the following development:

| 2-Bedroom Units | 3-Bedroom Units | 4-Bedroom Units |
|-----------------|-----------------|-----------------|
| 18 | 148 | 32 |

Clubhouse / Pool
Landscape and Irrigation System
Outside Yard Hydrants

Clemson University reserves the option to refuse to supply additional water to any further development or additions at the Hart's Cove / Tory Point Property.

12. Clemson agrees to maintain the point of delivery meter and meter pit and upstream 10-inch water line. Costs associated with major repair or replacement of the meter pit and appurtenances within the meter pit, except for meter and upstream meter isolation valve shall be borne by JACABB Utilities. JACABB Utilities shall maintain 8-feet service access to the meter pit and clearances around the adjacent grounds including costs for inspections, pest control, and any other services necessary to maintain and operate at this site.
13. JACABB Utilities agrees to own and operate all piping, hydrants, and appurtenances associated with the water system and downstream of the meter. JACABB Utilities agrees to pay in full for all water which passes through the meter should a water line break occur downstream of the meter.

14. JACABB Utilities agrees to assist in the collection of water samples as required by South Carolina Department of Health & Environmental Control and to furnish required records on the point of delivery backflow preventer.

IN WITNESS WHEREOF, on the day and year first above written, the parties hereto have caused their respective corporate names to be hereto subscribed and their corporate seals to be affixed hereto by their duly authorized officials executed in duplicate.

Attest:

Betsy R. Shua

Clemson University by:

Brett A. Dalton

Brett A. Dalton

Vice President for Finance and Operations

Attest:

Sheila Insley

JACABB Utilities by:

Stephen R. Goldie

Stephen R. Goldie

Managing Owner

Exhibit A - Hart's Cove / Tory Point Property Location (Aerial Depiction)

